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S O M E
Necessary Observations

On an Act of the last Sessions of Parliament,
INTITULED,
An Act for the Relief of Insolvent Debtors.

S H E W I N G,
That (if duly executed, and adverted to by the
Creditors themselves, either before or after the
Execution thereof) the said Act is Calculated
and Enacted, by the PARLIAMENT, with equal
Regard to the Interest of the *Creditors*, as to the
Relief of those *Prisoners* for Debt, who are deemed
real Objects of Compassion.

Humbly offer'd to the Consideration of the Worshipful BENCH of His
MAJESTY'S Justices of the Peace, for the County of *Middlesex*.

W I T H
An APPENDIX, touching a very Extraordinary Case, now depending
before their Worships; in a Letter to One of their Number.

By RODERICK MACKENZIE, *Sen. quondam A. A.*

*Justitia non novit Patrem, Matrem, neque Fratrem; Personam non accipit,
sed Deum imitatur.* Div. Hieron.

Prov. 28. 21.

To have Respect of Persons is not good: For, for a Piece of Bread that Man will transgress.

Matth. 18. 7.

Wo to the World because of Offences; For, it must needs be that Offences come; but Wo to
that Man, by whom the Offence cometh.

1 Theff. 4. 6.

Let no Man go beyond and defraud his Brother, in any Matter, because the LORD is
the Avenger of all such.

Prov. 17. 13.

Who so rewardeth Evil for Good, Evil shall not depart from his House.

L O N D O N :

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Advertisement to the Reader.

THese few (tho' said to be necessary) OBSERVATIONS on the late Act for the Relief of Insolvent Debtors, are not occasion'd, by any supposed loose, ambiguous, abstruse, perplex, defective, or unintelligible Clause or Clauses therein contain'd; (No, there is none such in it) but merely by the Indolence, Indifference, Mistakes, supine Negligence, or perhaps Ignorance of some, the crafty, fraudulent, avaricious and insidious Designs and Practices of others, and by the ridiculous, absurd, distorted and really inconsistent Constructions which a third Sort of People pretend, for sinister Ends, to put upon some very plain Clauses thereof.

So that (according to the Effect which this short, easy and well-meaning ESSAY may have) it is not improbable but that the Author may, by a Supplement thereto, make some further Animadversions on such just Remedies as the Parliament have, by other Clauses in the Act, provided in Favour of, and for the Relief of such Creditors, as find themselves aggrieved, by any Mistake, Negligence, Collusion, or Perjury, in the Execution of those special Clauses, here particularly pointed at, and descanted upon.

Some useful OBSERVATIONS *on an Act*
of the last Sessions of Parliament, intituled, An
 ACT for the Relief of Insolvent Debtors.

ACCORDING to the best of my Apprehension, it may, not very unjustly, be supposed, that the very PREAMBLE of the said ACT was the chief Motive that induced many Honourable and Worthy Members of Parliament (nay, I may say, the whole Legislative Body) to pass it; and therefore, before I mention any of the Statutory *Clauses* thereof, I'll recite here all the PREAMBLE *verbatim*:

“ WHEREAS many Persons, by Losses and other Misfortunes, are
 “ rendered incapable of paying their whole Debts; and tho' they are
 “ willing to make the utmost Satisfaction they can, are nevertheless de-
 “ tained in Prison by their *Creditors*; And whereas such unhappy *Debtors*
 “ have always been deemed the proper Objects of Publick Compassion,
 “ and by several Acts of Parliament have been Discharged: For the Re-
 “ lief therefore of Insolvent *Prisoners*, who shall faithfully discover upon
 “ OATH, and deliver up and assign all their *Estates* and *Effects* whatso-
 “ ever, for the Benefit of their *Creditors*, and to prevent, as far as pos-
 “ sible, the many *Frauds* and *Abuses*, which in a great measure have ob-
 “ structed the good End of such former Acts: BE IT ENACTED, &c.

Here is a very plain, intelligible and manifest Declaration of the Parliament's equally just and compassionate Meaning and Intention, that the Benefit of the said Act should be confined to such proper Objects of Compassion, as were willing and desirous to do every thing in their Power, for the Satisfaction of their lawful *Creditors*, and who would, for that End, faithfully Discover upon OATH, and deliver up and assign all their *Estates* and *Effects* whatsoever (whether in *Possession*, *Reversion*, or *Remainder*) for the Benefit of their *Creditors*, but not otherwise: And I must needs say further, It is my humble Opinion, that any Person of a clear Understanding, who (after reading the said Act with Attention) would repine at the Parliament's shewing that Compassion, to such proper Objects thereof, as are particularly described in the said PREAMBLE, deserves not to meet with either Compassion or Mercy, in the like Circumstances: Tho', at the same time, I will presume to affirm likewise (with the justly celebrated Author of *the whole Duty of Man*) it may possibly so happen here, as in many other Cases, that through either a Negligent, Indifferent, Mistaken, Precipitant, Partial or Collusive Execution of the said Act (contrary to, or inconsistent with the express Meaning and Intention of the Legislature) *Mercy to the Wicked may happen to be Cruelty to the Innocent*. For, as (even to my certain Knowledge) all *Creditors* are not cruel *Oppressors*, so it is likewise too consistent with my Knowledge, that all *Prisoners* for Debt, are not *Saints*.

Nay, many Instances can be given of *Debtors*, who merely through their own fraudulent Designs, wicked Practices, and obstinate Perverseness, have been *Prisoners* in the *King's Bench*, the *Marshalsea*, the *Fleet*, *Newgate*, and other Prisons, throughout the Kingdom, living riotously there, on that Money which ought to have been applied towards the Payment of their just and lawful *Creditors*; when, at the same time, some of their poor, oppressed, defrauded and circumvented *Creditors* have been possibly hard put to it, to get a Dinner for themselves and their Families; Nay, and owing it perhaps (when they got it) to the generous and charitable Benevolence of some well-disposed and tender-hearted Christians.

I know moreover, there have been, and are still, some Persons *Prisoners* for Debt, who chuse to remain *Prisoners* for Life, rather than accept of their Discharge, upon the real Conditions prescribed by the Act; unless they can evade the same, by Fraud, Circumvention, Negligence, Omission, or Collusion, and by Perjury into the Bargain!

And therefore, to prevent (as much as may be) any such *Prisoner's* having the Benefit of this Good, Just, and Charitable Act (except with all due Regard to the Interest of their lawful *Creditors*) the Parliament very wisely fram'd) and pass'd the same, with such necessary Precautions, Conditions, Restrictions, Limitations, Reservations, and other proper pre-requisite Solemnities, that if the same be duly and strictly observed, in all the Steps of the Execution thereof, and according to the mutual Checks that are thereby imposed on the respective *Officers* therein mention'd, as well as on such *Prisoners* themselves, I am humbly of Opinion, it will be next to impossible for the greatest *Juggler* of them all, to creep through, without Discovery.

My next general Observation is, that the Execution of the said Act is not (as that of the Laws in general) committed to the Learned *Judges* of the several Courts of *Westminster-Hall*; and that too (as I have heard said) chiefly for this Reason, among others, because, in such Case, the supposed *Remainder* of the *Prisoner's Estate* would be probably much lessen'd (if not quite exhausted) in Fees to *Serjeants, Counsellors, Attornies, Solicitors, Prothonotaries, Philazers, Clerks, &c.* and thereby the *Creditors* frustrated even of the poor remaining Fragment of the *Debtor's Estate*, which, by this Act, is strictly appropriated to the *Creditors Use*, in full Satisfaction of all their Debts: So that, for the better Preservation of such *Remainder*, the Parliament, very providently, framed this Act, with so much Clearness, Easiness, and Perspicuity, in every respect, that any Man of tolerable Capacity, who can read and understand *English*, cannot fail (if he read it with Attention) to understand fully the true and perfect Meaning and Intent thereof, without the Help or Assistance of such puzzling Conjurors as make it their Business to fish for, and find out Mysteries where there are none.

Thus, the Execution of this truly good Act is (in so far as the same has Relation to their several Offices) referr'd, in a cumulative and concurring Manner, to the *Sheriff, Goaler, or Keeper* of the *Prison, Gazetteer, Clerk* of the Peace, and any *Justice* of the Peace, for each *County, Riding, Division, City, Town* and *Liberty*, within this Kingdom, respectively, whom a *Prisoner for Debt*, in the ordinary *Prison* of such respective *County, &c.* shall think fit to Petition, claiming the Benefit of the said Act, in the first Instance; and to the Bench of *Justices*, at their General or Quarter-Sessions of the Peace, for such respective *County, &c.* in the last Place: Which will further and more fully appear, by the express Tenor of the Act it self.

My third general Observation, on the said Act, is that all the several Officers before mention'd are requir'd and oblig'd to do and execute their respective Parts, as enjoin'd expressly by the Act, either without any Fee or Reward at all, for the most material Steps thereof, or for such small Fees as are almost next to Nothing, where they are allow'd to take any.

These general Observations being thus premis'd, I come now to take notice of some special Clauses of the said Act.

" It is ENACTED (*Pag. 390, 391.*) That (after any *Prisoner's* having Petition'd a *Justice* of the Peace, in such Manner, at such Times, and for such Ends, as in the Act is specially set forth; and after the *Sheriff, Goaler, or Keeper* of the *Prison, Gazetteer, the petitioned Justice, and Clerk* of the Peace, as well as such *Prisoner*, have severally perform'd their respective Parts, as the Act specially prescribes) such *Prisoner* coming before the *Justices* of the Peace, at their General or Quarter-Sessions, 30 Days at least after Petitioning, as aforesaid, shall in open Court subscribe and deliver a SCHEDULE of his or her whole Estate, and the Names of his or her several *Debtors*, and the several Sums of Money from them respectively secured, and owing upon any Specialty, Contract, or other Account whatsoever, and the Names and Places of Abode of the several Persons, from whom such Debts are due and owing, and of the Witnesses which can prove such Debts or Contracts (if there be any such) and make OATH, and Swear to the Effect following; (that is to say) *vide Pag. 390, 391.*

I A. B. do, upon my Corporal Oath, in the Presence of Almighty God, solemnly swear, protest, and declare, That, on the 29th Day of September, which was in the Year of our
Lord

Lord 1724. I was a Prisoner, within the Prison of
 Goaler or Keeper of the said Prison of
 without my Consent or Procurement, and without any Fraud or Collusion whatsoever, and from
 that Time have been in Custody, and confined at the Suit or Suits of the Person or Persons be-
 fore named, (unless at such Time when I was out of Prison by due Course of Law) and that
 the SCHEDULE now deliver'd, and by me subscribed, doth contain, to the best of
 my Knowledge, Remembrance, and Belief, a full, just, true, and perfect Account and Dis-
 covery of all the Estate, Goods and Effects, unto me in any wise belonging, and such Debts
 as are to me owing, or to any Person or Persons in Trust for me, and of all the Securities
 and Contracts, whereby any Money will or may hereafter become payable, or any Benefit or
 Advantage accrue to me, or to my Use, or to any Person or Persons in Trust for me, and
 the Names and Places of Abode of the several Persons, from whom such Debts are due and
 owing, and of the Witnesses that can prove such Debts or Contracts, and that neither I, nor
 any other Person or Persons in Trust for me, have Land, Money, Stock, or any Estate,
 Real or Personal, in Possession, Reversion or Remainder, other than what are in the said
 SCHEDULE contain'd, (excepting Wearing Apparel, Bedding for my self and Fami-
 ly, working Tools, and necessary Implements for my Occupation and Calling, and these in
 the whole not exceeding the Value of Ten Pounds) and that I have not directly or indi-
 rectly sold, lessen'd, or otherwise convey'd, dispos'd of in Trust, or conceal'd, all or any
 Part of my Land, Money, Goods, Chattels, Stocks, Debts, Securities, Contracts, or Estates
 real or personal, whereby to secure the same, to receive or expect any Profit or Advantage
 thereof, or to defraud or deceive any Creditor or Creditors, to whom I am indebted, in
 any wise howsoever.

in the Custody of the
 at the Suit of

So help me God.

Now, in my humble Opinion, here is as full and comprehensive an OATH, as
 the Wit of Man can possibly form or devise, for the Purposes thereby intended;
 yet so little Regard have some People had to the great Importance and Conse-
 quences thereof, that I am positively inform'd, and have sufficient Ground to
 believe, that more than one have sworn it, to obtain their Discharges, and de-
 fraud their Creditors, with as little Regard to Truth, and as much seeming In-
 difference, as if they had been only cracking of Nuts: nor could I be hard put
 to it, to give perhaps more Instances than one of what I here assert, if there-
 unto duly requir'd; and I have good Reason to apprehend the seeming over
 Indulgence, Indolence, Indifference, or Remissness of some Officers, may have not a
 little contributed thereunto.

But (be that as it will) since many Hundreds of very ignorant (and, I am
 afraid, some wicked) Persons are, of course (as being Insolvent Debtors) oblig'd,
 by the Act, to take the afore-cited OATH, before they can have their Dis-
 charges, I heartily wish, in Charity to their Souls, and for the further Satisfa-
 ction of their Creditors, that before they be admitted to run the great Hazard
 of being perjur'd, by taking such OATH, care were taken to have them fully
 instructed in the Nature, sacred Obligations, and vast Importance of this, or any
 other solemn Judicial OATH: For which end I would humbly recommend
 to the serious Perusal of all such Persons, that Excellent Practical Discourse,
 concerning PERJURY and common SWEARING, written by the present most
 Reverend Arch-Bishop of Canterbury, about Thirty Years ago; wherein (among
 many other notable casuistical Positions) he says (Pag. 15, 16, 17.)

He forswears himself, who swears to the Truth of any Fact, which, at the same
 time, he either certainly knows to be false, or does not know to be true.

As for Example, that such or such a Thing was done, by such or such a Per-
 son, which, at the same time, he either knows that Person did not do, or has
 not sufficient Evidence that he did do: For, this being a downright Lie in
 the Assertion, must needs become a PERJURY by the Addition of an
 OATH to it.

And here it matters not, whether a Man certainly knows what he SWEARS,
 to be FALSE: It is enough that he does not know it to be TRUE. Nay, or
 should it happen to be true; yet if he thought it to have been otherwise, and
 yet swore to the Truth of it, he forswore himself: Nor will his MISTAKE
 at all contribute to the excusing his PERJURY before God.

B

Again

Again, a Man may forswear himself; not only by Swearing that which is altogether untrue; but by prevaricating in any the least Circumstance of what he delivers, and confirms with an OATH: As for Instance, if he swears to a Matter as certain, of which he has only a probable Assurance: If he affirm that upon his own Knowledge, which he has received only upon the Credit of some other: If he adds any thing to what he relates; or willingly conceals any thing that may give light, or weight to, or in any other Circumstance, notably affect the POINT to which he swears: In all these and the like Cases, he who knowingly and designedly prevaricates, or otherways departs but in the least tittle, from the Truth of what he delivers, forswears himself; tho' what he says should, in the main, be never so true.

In short, he who will swear, with a good Conscience, in any OATH of this kind, must first duly consider what he is about to say; and then must proceed, according to the strictest measures of Truth and Fidelity in it: he must neither add to, nor diminish from, what he knows to be the Truth: must deliver what is certain, as certain, what is doubtful, as doubtful; what he knows himself, as upon his own Knowledge; what he has received from others, as received from them: And in so doing he may be sure that he shall not forswear himself.

Thus, to the end that all such Prisoners or Insolvent Debtors as were intended to be relieved by the said ACT, might duly consider and regard the Consequences of what they were to swear, in order to obtain their Discharge, and to the end likewise that neither their Creditors, nor the Justices of Peace, before whom they were to be sworn, might be imposed upon, either by Fraud, Collusion, Perjury, Mistake, Negligence, or otherwise, the Parliament wisely ENACTED further (Pag. 392, 393.) " That every such Creditor should be duly served with Notice, both in
" the Gazette, and in such other manner as is particularly enjoined by
" the said Act, 30 Days at least, before the General or Quarter Sessions,
" where such Prisoners were to be sworn, and, of course, discharged
" also, at the same time, unless the said OATH taken by such Prisoner,
" should happen to be instantly disproved, by good Testimony of any
" credible Person or Persons, on Oath, to be then administered, by the
" said Justices.

And as a further Precaution against, and for the more certain Discovery of any supposed or intended fraudulent Practices or Perjury of such Prisoner, to the Prejudice of his or her Creditors, the said ACT contains several other pre-requisite Solemnities, Conditions, Provisions, Restrictions and Limitations, to be specially observed, by the respective Officers and others concerned in the Execution thereof, as well as by such Prisoners themselves: particularly the following Clause (Pag. 399.) which being so very essential for Discovering the Estates and Effects of such Prisoners, I recite here, verbatim.

" PROVIDED also, and be it ENACTED by the Authority aforesaid,
" that all and every Prisoner and Prisoners petitioning to be Discharged
" by this Act, shall, at the Time of such Petitioning, leave with the
" Justice or Justices petitioned, a true Copy of the SCHEDULE containing
" his intended Discovery to be sworn unto, at the General or
" Quarter Sessions, as aforesaid; which Copies shall be transmitted to the
" Clerks of the Peace, and there to be seen, without Fee or Reward, by
" any Creditor desiring the same.

This very Clause, how much soever slighted, neglected, mis-apprehended, or disregarded, by some Persons concerned in the Execution of the Act, is (I profess sincerely, according to the best of my Apprehension and Judgment) one of the most pertinent, just, provident, nay and even essentially necessary Clauses throughout the whole ACT; because it not only tallies exactly with the preceding Clauses thereof, but likewise because (without it, or some such other Clause or Provision, to the same Effect) the Act would be lame and defective: For, otherwise it would have
been

been next to impossible for any *Creditor* to come and appear so duly prepared, before the General or Quarter Sessions, but that some designing *Prisoner*, with the Assistance of a Crafty *Attorney* (and I suppose some such may be had, of both Kinds) might have very imperceptibly juggled, conveyed, and concealed the *Estate* and *Effects* of such *Prisoner*, by *Collusion*, and other too common fraudulent Practices, so as not only the *Creditors*, but even the *Justices* of the Peace also, must have been, of course, imposed upon thereby; and consequently such *Prisoner* have then immediately slip'd through their Fingers, by Surprise, and in the Hurry and Crowd, which is common on such Occasions: Whereas, to prevent such fraudulent Conveyances, and other sinister Practices, as much as may be, every *Creditor* who requires it, and insists upon it, is, by Virtue of this truly just and provident Clause, intitled to have (without any Fee or Reward) a previous View and Inspection of such SCHEDULE or Discovery of the *Prisoner's* Estate and Effects (whether in Possession, Reversion, or Remainder) about 30 Days Time, before such *Prisoner* be admitted to be sworn thereupon, in order to his Discharge: which Clause is specially calculated in favour of the *Creditors*, to the end that, in that Interval of Time, every *Creditor* might have an Opportunity to enquire into, examine, expiscate, and detect the Truth or Falshood of such SCHEDULE, and to be thereby previously enabled to confront such *Debtor* (if occasion be) instantly before such General or Quarter Sessions, with such proper Evidence as the Law requires, touching the supposed Disingenuity or intended Fraud of such *Debtor's* Schedule. And that this is the real and true Meaning of what the Wisdom of the Parliament intended and design'd by the said last recited Clause of the Act, is as clear and indisputable (when duly consider'd and compar'd with the foregoing Clauses thereof) as that Two and Three make Five.

If, to excuse the Negligence or Mistake of either the *Prisoner*, the petition'd Justice, the Clerk of the Peace, or of his Deputy, or Clerks, it be pretended (as I have heard it said) that there is no fix'd Day mention'd in the said Clause, for transmitting such Schedule to the Clerk of the Peace's Office; that therefore the said Clause imports little or nothing material; and that it is sufficient if the *Debtor* subscribe and swear to such SCHEDULE at the Sessions, where the *Creditors* may then see the same, (or at any time after) if they please.

But, with their Favour, who pretend to argue thus, it is neither better nor worse, than mere quibbling Stuff, for evading the manifest Intention and Directions of the Act; as appears clearly by the aforesaid Explanation thereof: And if that be not the true and indisputable Meaning of that Clause, I must say, with these Gentlemen, it has no Meaning at all: which is ridiculous, and grossly absurd, to suppose or suggest.

However, to illustrate the true Meaning of that Clause, a little farther by a familiar parallel Case, I'll suppose that any Merchant, Factor, or Bankier (Mr. Richard Longford, for Example) grants a Note or Bill, under his Hand, for 20. 50. or 100. Pounds, payable to another Merchant (Mr. William Horne) or his Order value Received &c. Mr. Horne indorseth that Note to one Mr. Wilkinson; Wilkinson comes and demands Payment of Ditto Longford; Longford tells him, Its true (Sir) this is my Hand, I own it; but there being no particular fixt Day or Time mention'd in the Note, when it should be payable, it lies in my Discretion to pay you when I think fit: however, if Mr. Horne or you call for the Contents, at Christmas or Lady-Day next, I'll pay my Note then, but not before.

This supposed Answer of Mr. Longford's is so very Ridiculous and more like the shifting Quirks of a common Fomenter of Law-Plea's, than the Candor of a fair Dealer that not only Mr. Horne, an experienc'd Merchant, but even any Bankier's Boy in London can tell him, all Notes thus payable without any Limitation of Time, are by daily Practice, and the LAW of Merchants, always Understood and Construed to be payable immediately, at Sight, or on Demand, at the Discretion of the Person to whom last payable, and not of the Granter or Indorser thereof: Thus, by Parity of Reason, as the Copy of every Petitioning *Prisoner's* Schedule is specially order'd to be deliver'd to the Petitioned Justice, jointly with every Petition, so the Transmitting thereof to the Clerk of the Peace's Office, was undoubtedly meant, by the Parliament, to be immediately, or as soon as conveniently possible; because otherwise it could not answer the End propos'd by such Transmission.

The very last Clause of all the Act runs, *verbatim*, thus:

“ PROVIDED always, that this Act shall not extend to Discharge
“ any Person out of Prison, who shall stand charged with any Debt
“ to his Majesty, or charged and indebted to any one Person in the
“ Sum of One Hundred Pounds, besides Interest and Costs, unless by
“ the Consent of every such Creditor, at whose Suit he shall stand
“ charged in such Sum as aforesaid.

The Meaning of this Clause seems to me so very plain, that it stands not in need of a Commentary. But as Lawyers must say some thing for their Fees, when they happen to have a Client that is very litigious and vexatious (if not much worse) I have heard it said, that because a Prisoner may possibly be charged with more than the Sum in which he is really indebted, therefore the Justices of the Peace, at the General or Quarter Sessions, might and ought to take Cognizance of the Merit of any Debt for which the Prisoner was charged, in order to such Prisoner's Relief; or to that Effect.

But, with Submission, the only Rule and Standard prescribed by the Parliament, whereby the Justices of the Peace are to govern themselves in judging whether such Prisoner be within the said special Exception of the Act, is *the Warrant of such Prisoner's Detainer*, together with a Copy or Copies of *the Cause or Causes* with which such Prisoner is charged in Prison; as may be seen by the Act itself. (Pag. 388, 390.)

Now, if it appear to such Justices, at their General or Quarter Sessions of the Peace, that *the Warrant of Detainer*, and every other Cause with which such Prisoner is charged in Prison, is either for a less Sum than 100*l.* besides Interest and Costs, or that such *Warrant of Detainer*, and every Cause charged as aforesaid, is grounded upon a loose, precarious, undetermin'd Action of alledg'd Debt, a common Writ of Arrestment, or the like, then I suppose none will, in such Case, have the Assurance to dispute the Power and Authority of such Justices, to take Cognizance of all such precarious Cases, at their respective General or Quarter Sessions, within the Time limited, pursuant to the apparent Intention of the said Act.

But, if it happen so, that either the *Warrant of Detainer*, or any one Cause with which such Prisoner is charged in Prison, appear to be for a fix'd, liquidate Sum, amounting to 100*l.* or upwards, of Principal Debt (besides Interest and Costs) upon a final JUDGMENT or DECREE, issuing out of any of the Courts of *Westminster-Hall*, and Execution following thereupon, I am fully perswaded, that the Justices of the Peace, at their respective Sessions, know much better Things, than to take upon them to repeal such JUDGMENT or DECREE of a superior Court, upon any Account or Pretence whatsoever. No, for, as the Parliament never meant or intended, by this Act for the Relief of Insolvent Debtors, to revive, any manner of way, that long since exploded Act of the 11th of Hen. 7. (commonly called *Empson and Dudley's Act*) making the then Justices of Peace, Judges at Discretion, without regard to any other Judge or Jury; so I am equally certain it never enter'd into the Heads of the present Worshipful Justices of the Peace, to assume or exercise any such unlimited Power, at the General or Quarter Sessions.

So these few OBSERVATIONS being the accidental Result of a very extraordinary and unaccountable Dispute, that happen'd to fall under the Consideration of the last General Sessions of the Peace, for the County of *Middlesex*, on the first Day of September last, at *Hicks's Hall*, and then very justly determin'd, but, since that Day, renewed again, kept up, and still depending, I may justly end my Observations thereupon, at this Time, in the very noted Words of the late Arch Bishop Tillotson, on another Occasion; *This is not a Controversy of Reason against Reason, but of down-right Impudence, against the Sense and Reason of Mankind.* The Truth whereof will incontestably appear, by the hereunto subjoin'd Appendix.

ISAIAH V. 20, 23.

Wo unto them that call Evil Good, and Good Evil; that put Darkness for Light and Light for Darkness; that put Bitter for Sweet, and Sweet for Bitter.— who justify the Wicked for Reward, and take away the Righteousness of the Righteous from him.

APPENDIX,

APPENDIX.

NUMB. I.

To the Worshipful BENCH of his MAJESTY's Justices of the Peace
for the County of *Middlesex*, assembled at *Hicks's Hall*;

The PETITION and CASE of R. M. Creditor to Captain W. M.
Prisoner in Newgate, for Debt.

HUMBLY SHEWETH,

“ THAT the said Captain W. M. by BOND, and JUDGMENT
“ obtain'd thereupon, in *Trinity-Term* 1724. and Affirmed again, by the
“ unanimous Suffrage of the then *Lord Chief-Justice King*, and all the other Judges
“ of the honourable Court of *Common-Pleas* (after reading *Affidavits* and hearing
“ Counsel, on both sides) in *Michaelmas-Term* last, is indebted to Your Petitioner in
“ the Sum of 431 l. 3 s. d. one Farthing of Principal Debt, not including either In-
“ terest or Costs, which amounts to 320 l. more, after all Payments being deducted.

“ THAT whereas Your Petitioner has Notice that the said Captain W. M.
“ (notwithstanding all his former Repulses) hath had the Modest Assurance to renew
“ his Petition, to be Discharged, by Virtue of the late Act for the Relief of Insolvent
“ Debtors, and obtain'd another Warrant to the Keeper of *Newgate*, to bring him
“ before Your Worships, at Your present Quarter Sessions at *Hicks's Hall*, for that
“ End, Your Petitioner doth humbly insist and hope that he neither can nor ought
“ to be discharg'd, without Your Petitioner's special Consent, for the following REA-
“ SONS:

“ I. Because the Reasons given, to and by the PARLIAMENT, for the Re-
“ lief of Insolvent Debtors, is confin'd to such Prisoners only, as are willing to make
“ their Creditors all the Payment and Satisfaction in their Power; which this Prisoner,
“ Captain W. M. is so far from complying with, that he has not only used all the
“ sinister and fraudulent Ways which he, his Confederates, and Agents, could contrive
“ and accomplish, to mis-convey and conceal his Estate and Effects (as Your Petiti-
“ oner is able to prove) but has even, with most aggravating Circumstances, and
“ horrid Imprecations, SWORN he never would pay Your Petitioner One Shilling,
“ were it to keep him from Starving; tho' demonstrably the best Friend, Benefactor,
“ and Supporter he ever had, in all his many Difficulties, for Thirty Years together
“ at least, from and after the Year 1688.

“ II. Because the previous and Essential Solemnities, Conditions, and Limitations of
“ the said Act (without which no Prisoner for Debt ought to be discharg'd) have
“ not, in regard to Your Petitioner, been observ'd; as Your Petitioner is able to prove.

“ III. Because the said Prisoner, Capt. W. M. is indebted to Your Petitioner, in
“ a Sum exceeding 100 l. besides Interest and Costs, as aforesaid; which is an express
“ Limitation and Exception, ENACTED by the very last Clause of the said Act,
“ against the Relief of all Prisoners so indebted, otherways than with every such Cre-
“ ditor's Consent only.

“ IV. Because the said Prisoner, Captain W. M.—'s Warrant of Detainer is for
“ the Sum of 431 l. 3 s. d. one Farthing Principal Debt, upon Personal Execution, pur-
“ suant to the JUDGMENT aforesaid.

“ V. Because, after hearing Counsel, on both sides, Your Worships have, at Your
“ last General Session, already adjudged this Case, to be within the said special Ex-
“ ception, not only as aforesaid, but even by Your Petitioner's OATH, for the
“ Confirmation thereof; which, by the Scripture-Rule, ought to put an End to all
“ Strife.

“ VI. Because, whatever new Matter may now be pretended (as was suggested
“ before) to Balance the said Debt, by alledged Payments, antecedent to the Date of
“ the BOND upon which the said JUDGMENT proceeded, Your Petition-
“ er doth humbly insist, and is so advised by Counsel Learned in the Laws, that the
“ same

" same cannot properly fall under Your Worships Cognizance, so as any way to
 " weaken the Force of the said JUDGMENT, obtain'd, contested, and af-
 " firmed, in a Superior Court, as aforesaid.

" THAT even supposing such pretended new Matter could fall regularly under
 " Your Worship's Cognizance, in Derogation of such JUDGMENT, Your
 " Petitioner doth absolutely affirm, and is able to Demonstrate. that every Individual
 " Article of that Long, Confus'd and Inconsistent Rapfody of wile, scandalous, false
 " and supposititious pretended Accounts which the said Prisoner, Captain W. M. had
 " patch'd up, calculated, and (in a Clandestine Manner) propogated, for several
 " Years together, (before ever Your Petitioner discover'd or suspected any such fla-
 " gitious Practice) to palliate, extenuate and conceal, (if possible) his own most inhu-
 " man and perfidious Treachery, Ingratitude, Breach of Trust and Imbecilements, where-
 " by he did all that in him lay, to ruin not only Your Petitioner's FORTUNE,
 " above 17 Years ago, but has since studiously endeavour'd, by all the wicked Ways
 " that Malice and Envy could invent, to murder Your Petitioner's most wrongfully
 " injur'd (and till then unblemish'd) REPUTATION and CREDIT,
 " (every Article thereof, I say) is, even to a single Farthing, either credited else-
 " where, or otherwise either forged, fictitious, or fallacious, and most abominably
 " scandalous and groundless, as his (the said Captain W. M.'s) Affidavit of the
 " 26th of October 1724. and recorded in the said COURT of Common-Pleas, in
 " Michaelmas-Term last, is likewise most grossly perjurious, in several flaming Articles;
 " otherwise Your Petitioner shall submit to change Places with him.

" THAT nevertheless, Your Petitioner (to shew the Integrity of his Heart, the
 " Justice of his Cause, and his constant willingness to discharge the said Prisoner, Capt.
 " W. M. upon very moderate Terms, even less than the ACT requires) is ready
 " to refer his said CLAIM (tho' fix'd and constituted as aforesaid) to the AR-
 " BITRATION of Two or Four of Your Worships BENCH, to be indif-
 " ferently Named and Authoriz'd for that End, and to abate 200 l. of whatever
 " Sum such Arbitrators shall adjudge to be due to Your Petitioner; subject always
 " to such previous and reasonable Conditions as Your Petitioner is ready to declare
 " instantly under his Hand, and which he knows the said Prisoner, Captain W. M. is
 " able to perform, if Your Worships and he shall so think fit: But particularly that
 " he defray all the Charges of such Arbitration.

All which is most humbly submitted.

NUMB. II.

The Copy of a LETTER sent to a certain Justice of Peace, for the
 County of Middlesex, on Thursday the 14th of October, 1725.

WORTHY SIR,
 " HAVING had the good Fortune to be formerly known to you, for
 " some Years together, I perswade my self you have not, in all
 " that Time, had Occasion to observe any Thing in my Life or Conver-
 " sation, inconsistent with the common RULES of Decency, Good Man-
 " ners, or Humanity, or indeed with those general Relative Duties which
 " every Man owes his Neighbour, of whatever Degree or Quality, so far
 " as my then Circumstances could well bear: I therefore humbly presume
 " to hope you'll have the Goodness to indulge the Liberty I now take, in
 " giving you the Trouble of this long LETTER (tho' upon a melan-
 " cholly and disagreeable Subject) when you'll fully know the true Occa-
 " sion thereof; being encourag'd to this Freedom, not only from the Na-
 " ture of that Province wherein you so worthily officiate, as one of the
 " Worshipful BENCH of His Majesty's Justices of the Peace for the
 " County of Middlesex, but likewise upon Account of that great Huma-
 " nity and Justice which (I am well inform'd) you indifferently shew to
 " all Persons coming before you, without Respect of Persons in JUDG-
 " MENT.

" The

“ The Truth is, my not having the Honour, or good Fortune, to be
 “ known but to very few of His Majesty’s *Justices of the Peace* for the said
 “ County, and having certain *Intelligence* that, at a *Consultation* had, the
 “ 11th of this Month, at the *King’s-head Tavern*, near *Hicks’s Hall*, on
 “ the Part of my most ungrateful as well as unjust *Adversary*, Captain *W.*
 “ *M.*, it was, then and there, advised, by his *Counsel learned in the Laws*,
 “ (as the last Effort, on his Behalf) That as many *Officers of the Army* as
 “ could possibly be prevail’d upon to come thither, should appear for him,
 “ at *Hicks’s Hall*, to give him some general *advantageous Character*, (when
 “ he’ll be brought thither) in order thereby (if possible) to *influence such*
 “ *Justices* as may be of their Acquaintance, in his Favour: I am therefore
 “ (tho’ contrary to my Inclination) advised to take now this (perhaps un-
 “ common, tho’ honest) *Method*, to counter such *unjustifiable Measures*,
 “ by making my unfortunate Case the better known and understood, in
 “ in order thereby to do some *Justice* to my own most wrongfully injur’d
 “ REPUTATION and INTEREST, by means of (I am sorry to
 “ find my self compell’d to call him so) one of the worst Men this Day in
 “ Life, and his most scandalous *Emissaries*, who have no more Regard to
 “ Truth, than a *Wolf* has to his innocent *Prey*: as may partly be gather’d
 “ from the inclosed Copy of my *Petition and Case*; the Reading where-
 “ of was put off, on *Monday* last, ’till *Tuesday* next; at which Time, I hum-
 “ bly beg, you may give your self the Trouble to meet the other *Justices*
 “ at *Hicks’s Hall*, to assist there, in determining what you’ll judge proper
 “ to be done, touching my said PETITION and CASE, according to
 “ your accusom’d impartial JUSTICE.

“ It has been the Observation of a late celebrated Author, that an ho-
 “ nest Man wrongfully injur’d in his Good Name, Reputation, Credit and
 “ Interest, may endeavour to do himself Justice, without Vanity, but seldom
 “ (if ever) without Censure; because, on such Occasions, one must say some
 “ Things, in his own Vindication, savouring perhaps seemingly of too much
 “ Orientation and Self-conceit, which probably otherwise he would never,
 “ even in common Decency, have anyway mention’d: And indeed the putting
 “ my Case in some clear Light, is so much the more necessary for me now,
 “ because the generality of Mankind are so very incompetent Judges in
 “ almost all controverted or disputed Cases whatsoever, that they too com-
 “ monly condemn or acquit both or either of the contending Parties, im-
 “ plicitely, or by the Lump, upon common *hear-say Evidence*, or Report,
 “ according to the first accidental Impressions they receive of either Per-
 “ sons or Things; without ever being at the Pains to enter upon any nice
 “ Enquiry into, or Disquisition of the chief Points in Debate, or who really
 “ is the first Aggressor, or Party offending?

“ Thus indefinite Numbers of Wholesale Censurers, Bottle and Pot-
 “ Companions, noisy, idle, tippling Gossips, Tea-Table Tattlers, Coffee-house
 “ Politicians, loose, Atheistical Libertines, and other busy, officious, su-
 “ perficial, and extra-judicial pretended Judges, among all Ranks of Peo-
 “ ple, do with negligent, affected and supercilious Airs, and possibly too
 “ with some very emphatick Shrugs, Sneers, and Grins, or loud Laughings,
 “ to cover perhaps their own polite Ignorance, or stately, formal Emptiness,
 “ take upon them (after some such laconick Preliminaries) to vindicate
 “ this or that Party, (tho’ ever so guilty) for no other Reason, but merely
 “ perhaps out of down-right private Pique against the other; or otherwise
 “ peradventure (in case the former be found unjustifiable) magisterially to
 “ pronounce both Parties equally guilty (which, by the bye, is as impossi-
 “ ble, especially in the present Case, as it is to reconcile the Two Parts of a
 “ Contradiction) tho’ indeed they much more frequently declare their Sen-

“ timents more particular, *at random*, according as they happen to be
 “ prepossess’d, or byas’d, by *personal or Party-prejudices*; or otherwise as
 “ the *Case* may possibly have more or less *seeming Identity* with their
 “ own *several and respective Circumstances*, upon the like Account.

“ For my Part, as I ever did, so (I am sure) I still do, and ever shall,
 “ reckon it a very great Misfortune to be any way engag’d in *personal*
 “ *Accusations, Reflections, Vindications, or Recriminations*, on any Ac-
 “ count whatsoever; and have therefore always endeavour’d, as much as
 “ in me lay, according to my Situation at the Time, to avoid the Occa-
 “ sion, at least by not being the first Aggressor, and even by passing over
 “ many and many ordinary *Offences*, with *Silence and Contempt*.

“ But yet, I must own, whenever I found my self (as upon this Occa-
 “ sion) very grossly attack’d in so tender a Part as my REPUTATION,
 “ (which, upon many Accounts, I have ever valu’d, even beyond my
 “ Life) I have always been, and still am, so much the more sensibly af-
 “ fected thereby, by how much the Person or Persons so offending have
 “ been under more than ordinary personal Obligations to me, at the time;
 “ or upon any former Occasion; and, in such Cases, a continued SI-
 “ LENCE is generally construed to be not only a *tacite Acknowledg-*
 “ *ment of GUILT*, but even, in some Measure, *culpable* also; because
 “ thereby the Person or Persons really *guilty* are, by such SILENCE
 “ *and tame Acquiescence*, suffer’d to triumph in their *Wickedness*, to the
 “ great *Discouragement of all true Honesty and Virtue*.

“ Among the many other *bad Qualities* ascribed to me, at this time,
 “ by my said *Adversary*, his mercenary *Partizans*, and truly scandalous
 “ *Emissaries*, I am industriously mis-represented to Strangers, as if I
 “ were of so *avaricious, cruel and oppressive a Nature*, that I would ar-
 “ rest any Person whatsoever (nay, even OUR BLESSED SAVIOUR,
 “ if He were here again in His human Capacity) for the Value of *Six*
 “ *Pence*; (O horrid and impious Thought!) whereas really (Sir, you
 “ may believe me) the very contrary thereof is, and will, upon Exami-
 “ nation, manifestly appear to be the Truth.

“ For, tho’ I have known *London*, these 40 Years past, yet such has
 “ been the general Tendency of my natural Inclination for *Peace and*
 “ *Quietness*, even from my Infancy, (how much soever cross’d and disap-
 “ pointed therein) that, except upon this present most vexatious Occa-
 “ sion, I never applied to, or was cited to appear, or brought before any
 “ Justice or Justices of the Peace (as such) on any Account whatsoever,
 “ either here, or any where else, ever since the Day of my Birth.

“ Nay further, tho’ I have, for a Course of Years together, been in-
 “ trusted (in Subordinate and Inferior Stations) with the Receipt and
 “ Payment of several Hundred Thousands of Pounds, of Publick and
 “ Private Money, (for which I have always accounted honestly, to the
 “ full Satisfaction of all concern’d) and had withal frequent Opportuni-
 “ ties and Temptations to have arrested several Scores of Persons, in that
 “ time, had I been so inclined; Yet so little had I ever of the Spirit of
 “ Oppression, Cruelty, Covetousness or Rigidity, in my Nature, how much
 “ soever mis-represented now) that, excepting one *Knaveish French-man*
 “ whom I arrested in his Way to *Dover*, about 38 Years ago, and now
 “ this *unhappy Captain W. M.* I never arrested any Mortal, in the whole
 “ Course of my Life: *Unhappy!* (I say) because he has been undeniably
 “ so, to his Parents and himself, even from his Infancy; *Unhappy* to every
 “ one of his own and his Father’s Family, who had, at any time, the
 “ Misfortune to put any Trust or Confidence in him; and *Unhappy* to me
 “ and my now poor afflicted Family, in a most perfidious and desperately
 “ wicked

"wicked manner; otherways he had never been arrested, at my Suit,
 "upon the Account of Money only; no, not even after I was, about 17
 "Years ago, ruin'd, in my Fortune, merely by means of his Breach of
 "Trust, Imbezlements, and the too notorious Consequences thereof.

"But when I came to discover that, to palliate and (if possible) con-
 "ceal the same, he at first privately, and then at last avowedly, studiously
 "labour'd to *Murder* my REPUTATION, with an invidious Design
 "to bring it down to a *Level with his own*, I thought it was high time
 "for me to put it to the Test, who was the guilty Person, he or I.

"I have demonstrably been to him (without any *Hyperbole*) the greatest
 "Earthly Blessing he ever met with, in many Respects, for 30 Years to-
 "gether at least: And, in Return, he has certainly been to me (especially
 "these 17 Years last past) by much the greatest Curse that GOD ever
 "thought fit to inflict upon me, for my Sins, to this Day.

"Nevertheless, I am sensible, the Generality of unthinking and igno-
 "rant People (without ever entering into the Merits or Demerits of either
 "the one or the other) most commonly imbibe a Notion, of Course, that
 "the Person arrested or imprison'd (be he ever so great a *Knave* or *Oppres-*
 "*or*) is oppress'd; especially if the Plaintiff (be he ever so much wrong'd,
 "traduc'd and oppress'd) happen to be a near Relation or Kinsman.

"But tho', by the general RULES of *Humanity* and *Christian Cha-*
 "*rity*, I am bound not to tell even an *uncharitable Truth* of my Neigh-
 "bour, Brother or Sister; Yet there are always some Exceptions from any
 "such positive RULE, according to the Opinion of the most Learned
 "Divines, and most Orthodox *Casuists* that ever wrote; and amongst them,
 "the incomparable Author of THE WHOLE DUTY OF MAN
 "has, in his Excellent Treatise, intituled, *The Government of the Tongue*,
 "made my Apology and Vindication, for me, ready to my Hand, in these
 "following exprefs Words: *If the Cause be considerable, and the Manner*
regular, there sure lies no Manner of Obligation upon any Man, to wrong
himself, to indulge to another, neither does Charity retrench this Liberty:
For, tho' it be one Act of Charity to conceal another Man's Faults, yet some-
times it may be inconsistent with some more important Charity, which I owe
to a third Person, or perhaps to a Multitude: For, in such Instances, 'tis a
RULE that Mercy to the Evil proves, Cruelty to the Innocent; and
in a Competition of Mischiefs, we are to chuse the least. Nay, even that
Charity that reflects upon my self, may also sometimes supersede that to my
Neighbour: I need not sure silently assent to my own unjust DEFAMATION,
for fear of proving another a false ACCUSER; nor suffer my self be made
a BEGGER, to conceal another Man's being a THIEF.

"Tis true, in a great Inequality of Interests, Charity will prompt me to
 "prefer a greater Concern of my Neighbour's, before a slight One of my own:
 "But in equal Circumstances, I am sure at Liberty to be kind first to my self:
 "If I will recede even from that, I may; but that is then to be accounted
 "among the HEROICK FLIGHTS of CHARITY, not her binding and
 "indispensible LAWS.

"Now let the said Captain W. M. and all his Crew of vile *Emissaries*, *Belie*
 "and *Calumniate* me, as much as they please, till they have the Fate of all
 "Liars at last, I'll appeal to the Testimonies of *Messieurs James Campbell, Walter*
 "*Stewart, Hugh Frazer, and Edward Lascelles*, Arbitrators, and Mr. *William Brown*,
 "Umpire, (all then Merchants of London) or the Survivors of them, their
 "Clerks and Accountants; and likewise to the Testimonies of those three other
 "Merchants then concern'd with me in the *Corn-Trade*, whether the said Captain
 "W. M. durst, in all human Probability, have ever appear'd again publicly, and with
 "Safety, in London, or wherever those Partners could have come at his Person, any
 "time, these 17 Years past, if my then (I may now too justly, say ridiculous) *Ge-*
 "*nerosity, Charity and Compassion* towards him, had not amounted to the *Heroick*
 "*Flight* above mention'd, first by obtaining *Letters of Licence* for him, and then by
 "actually paying down, for him, or (which is the same) voluntarily allowing them
 "to place to my own proper Account 461 l. 7 s. 5 d. (which by the Arbitration
 "and Award, I was not requir'd or oblig'd to have done) for his *Imbezlements* and

" *Breach of Trust*, besides several other considerable Articles of Desperate Debts,
 " and taken absolute and irrevocable Assignments, under the said Partners Hands
 " and Seals, against the said Captain W. M. for the same, merely to keep him
 " from being hunted, and thrust into Prison, by them: Never doubting then (not-
 " withstanding the almost incredible Losses I sustain'd by the said Partners and
 " Others, under the Colour of, and occasion'd by, the said Captain's *Imbezlements*
 " aforesaid) but that my own REPUTATION, (till hellishly traduced since by
 " him, together with my honest INDUSTRY, and tolerable CAPACITY,
 " in managing Business for my self and others) might always (as formerly) have got
 " me a competent Maintenance for my self and Family, and have enabled me like-
 " wise to do that Justice which, G O D knows, I ever inclin'd to have done to all
 " Mankind, and (with G O D's Assistance) ever shall endeavour to do, whether the
 " said Captain W. M. should ever happen to be in a Condition to pay me, or not.
 " Nor did I ever fail, in 10 or 12 Years Time, even after that, to do him all the
 " good Offices in my Power, partly indeed with Design to have enabled him to do
 " my self some Justice; whereas without my Assistance (or had I then deservedly
 " dropt him, as all the other Relations he had in the World, and who then knew
 " him, did about 38 Years ago) he could never have so much as reasonably hoped
 " to have either full or half Pay, to maintain him, this Day; nor yet the Com-
 " mand of a certain other Sum of Money the seeming Property whereof he has
 " lately had alter'd, in such a preposterous, fraudulent and clandestine manner, that
 " he vainly imagines I know nothing thereof.

" However, if I were such a Cruel, Oppressive, or Covetous Person as he and his
 " Emisaries now represent me to be, why should I have taken the said Partners
 " Assignment aforesaid, on a then real (tho' not formal) BANKRUPT, instead
 " of 10 many Hundred Pounds of ready Money, which all the said Partners and
 " Arbitrators very well know I might then (that is 16 Years ago) have insisted upon
 " and actually received, by the AWARD, if I had left him to their Mercy, to
 " prosecute him for his *Imbezlements* and *Breach of Trust*? Or why did not I my
 " self, in 16 Years Time, prosecute him, either in my own Name, or in their Names,
 " and at their Suit, on that Assignment? was there any Bar to have hinder'd me
 " from so doing? no, nothing like it: I have it still by me, without ever making
 " any other Use of it, all this Time, than to secure his Liberty against them. Why
 " did I not, in 12 or 13 Years Time, arrest him on either of his 2 Bonds to my self?
 " was there any just Bar to have hinder'd me? no. Why did I not, in 15 Years
 " Time, sue out a Judgment against him, on his own special Warrant of Attorney,
 " to confess Judgment? Was there any other just Reason, under Heaven, to have
 " hinder'd me, from taking any of those Measures, but merely my own Humanity,
 " Over-Indulgence, Forbearance, Charity, Lenity, and even (I may say) most ridicu-
 " lous Abatements and Condescensions, to so very worthless an Object, on the one
 " hand, and his then seeming Sorrow, Crocodile-Tears, repeated Promises of Amend-
 " ment, and crafty Dissimulation, on the other; till (when, it was, alas! too late
 " for me) I discover'd, at last, the Falshood and Deceit of his treacherous Heart;
 " and then indeed (like a Carted or Bridewell-Whore) he became so harden'd, and
 " audaciously impudent (as he continues to be, if possible, still more and more)
 " that he brings into my Mind, oftner than once, that natural Observation of
 " C I C E R O, *Qui semel verecundia fines transferint, eos oportet graviter esse impudentes.*
 " They (said he) who once suffer themselves to go beyond the just Bounds of common
 " Modesty and Shame, must, of course, by Degrees, become most audaciously im-
 " pudent, and consequently desperately wicked, at last. For, my Part, I declare
 " sincerely, I think it the greatest Disgrace of my Life, that his Character should, by
 " any Means whatsoever, be put in Competition with mine: For, as (I thank God)
 " my Education, so have my Morals, Manners, and general Course of Life, these 50
 " Years past, and upwards, run in a quite different Channel, from his: And it was
 " happy for him they did so, because otherwise he must have lived and died in de-
 " served Obscurity, without having ever so much as the Prospect of any Commission,
 " either Civil or Military, after all his other Relations had abandon'd and given
 " him quite over, in 1688. as a worthless, obstinate and incorrigible Reprobate;
 " if I (even I only, upon his seeming Repentance and Promises to lead a new Course of
 " Life, ever after) had not then, charitably and compassionately, rais'd him out of
 " the utmost Degree of Misery, having then thrust himself officiously upon me,
 " (God knows, un-sent-for) and done more for him, then and since, than (to my
 " great Regret and Shame) I ever did, for any of all my own much more deserving
 " Children. But save a Thief from the Gallows, and he'll be the First that will cut your
 " Throat, &c.

N U M B. III.

A SECOND LETTER sent to the same Justice of Peace, the 20th of October, 1725.

Veritas amara est, et quisquis sibi conscius est, se putat attatum. Erasim.

He's enough to make a Log speak, or a Parson swear. Eng. Prov.

WORTHY SIR,

I Am sensible, I stand in need of many Apologies, for exercising Your Patience so much, in reading the last troublesome and LONG LETTER I sent You, about my unhappy and most vexatious Debtor, Captain W. M. and the seeming Digressions therein contain'd: But (if I may use the Words of a late ingenious French Author, on the like Occasion) I really had not time enough to write You a SHORTER ONE: And if any unguarded Expression has escaped me therein, I hope you'll charitably ascribe that to the just Indignation which every honest Man ought to shew against such ungrateful, tricking, and circumventing Usage as I have, too notoriously, met with, at his Hands, with the Assistance of some of his mercenary Agents, and scandalous, lying Emissaries. Yet an additional (tho' not fully successful) Fun put upon me, the other Day, (as my Attorney, Mr. William Horne, informs me) by an Attorney of great Experience, on the other side, makes me, once more, presume to give You the additional Trouble of this likewise; chiefly to let You know that, by the dexterous Management (it seems) or Neglect of a certain Attorney, I was bambouzzed so as to be absent, when, upon Monday last, my said Debtor was brought before the Justices at their Sessions specially appointed (it seems) for hearing my said Debtor and me, *de novo*, touching the main Point in Debate between us.

When the Reading of my PETITION and CASE (whereof I sent You a true Copy) had been put off, from Day to Day, particularly on Monday the 11th Instant, I was then told, by my said Attorney, that (after all the other Business of the Quarter-Sessions would be over) the Bench of Justices had agreed to appoint a particular Day for hearing the said Captain's Case and mine, and that both Parties should have previous NOTICE of such Day, in due time, when so appointed.

Some short time after (that is, on the same Monday) my said Attorney told me, that he and the said Captain's Attorney, one Richard Longford, had had a Conference touching such NOTICE, with or in Presence of some Officer or Officers of the Sessions-Court, (or he said Words to that Effect) and that they concerted Matters thus: That the said Longford had undertaken to attend the Sessions, from time to time, to know when such DAY would be appointed, and that, upon Notice thereof, he had engaged to give NOTICE to my said Attorney, one Day at least, before such appointed DAY; and that then my said Attorney should forthwith give me NOTICE thereof.

However, so it is, that I had no NOTICE of the said DAY, before it was over; tho' I call'd several times, for Mr. Horne; left a Line for him, with positive Directions where to send me Notice in writing, by a Porter, the Minute he should have Notice of the said DAY, &c. because indeed much more depended on my own Presence, than that of Mr. Horne, or any other Attorney whatsoever, on my Part, otherwise than to prove the Judgment and Subsequent Rules of the Honorable Court of Common Pleas, affirming the same, in my favour. I call'd likewise at the Clerk of the Peace's Office, twice, but had no direct Answer; and I happen'd moreover to be accidentally mis-informed, that, Monday last being a Holy-Day, the Justices were not to sit then, and that Yesterday was the special Day appointed for the Purposes aforesaid: Nor was I undeceived, before I call'd, on Monday last, in the Evening, for Mr. Horne, in order to have known whether Yesterday was really the Day fixt for being heard, or whether it was adjourn'd to some further Day?

But You may easily Suppose I was not a lirtle concern'd, to understand that the Matter had been heard, *ex Parte*, that same Day (that is on Monday last) and referr'd to the Examination of a Particular Committee of Justices, and a Re-

port to be made by them, to the next *General* or *Quarter Sessions*, Nay I understand, since, that my said *Debtor* had been then actually Discharg'd, if an Honest, Worthy Gentleman, (Counsellor *Vane*) whom I had retain'd, the week before, had not casually been there, and oppos'd it, on my Part; tho' without any *Brief*, either from my Attorney, or my Self; he having only taken a cursory View of my *Petition* and *Case*, which I gave into his Hands, to have been presented by him, on the preceding *Monday*, but was unluckily given by him to my Attorney, to read, and so by him return'd again to my self.

But the Candor of some of those Gentlemen, on the other side, may be seen in this, that they had (as I am inform'd) the Modest Assurance to assert to the *Justices*, that the Reason why I was not there, was because I had resolv'd not to oppose the said Captain's Discharge any further.

I must tell You likewise, that I am inform'd none of the Officers of the Army (who are Men of Honour) could be prevail'd upon, to appear then in Court, on his Behalf, to have given him any *advantageous Character*; as his Counsel advis'd, on the preceding *Monday*.

I call'd Yesterday, and this Day again, at the Clerk of the Peace's Office, for a Copy of the Order of Reference, or barely the Names of the said Committee of *Justices*, or when and where they are to meet: But these are Favours I must not (it seems) expect, before I am served with an *Order* or *Notice*, by the other side, (that is, by those who act for my *Debtor*, the said *Prisoner*) so that if they serve me, as before, I know not how far I may be wrongfully misrepresented to the Worshipful Committee, as guilty of Contempt: For, I too well know my said *Debtor* makes no Scruple of either saying or swearing any thing, that may create a Prejudice against me: He has sent for several Persons to *Newgate*, chiefly to tell them (with the Grace of a G——D——n Him) that I am a *Traitor* and a *Villain*, &c. These are hard Words; but I defy him (tho' in the Gall of Bitterness, and in all the Vinegar of his Wrath) to prove me either the one or the other, in any one Action of my Life, these *Three Score Years* past; without the Assistance of some of his Knights of the Post; nor even then neither, if I have a fair Opportunity given me, to exculpate.

As to what I am told was produc'd and sworn to, on *Monday* last, by and on the Part of the said *Prisoner*, I believe I shall have Occasion to shew that the D——l ow'd him and his Witnesses a Shame, and that he has tempted them to pay themselves. So I'll conclude; at this time, in the Royal Psalmist's Words: *Deliver my Soul, O Lord, from lying Lips, and from a deceitful Tongue: What Reward shall be given, or done unto Thee, thou false Tongue? even mighty and sharp Arrows, with hot burning Coals.*

F I N I S.



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Virg. *Aeneid*. XI.

Quem non Virtutis egentem,
Abstulit atra Dies, et Funere mersit acerbo.

Obstupere omnes Gemitumque dedere Britanni.

